ISH3 Pt4

0:01
Good afternoon and welcome back.

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The time is now 1546 and we are now resuming this hearing. So this is now session four of IH3.

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So agenda item 7, which is decommissioning.

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I think it's fair to say a lot of the questions I did originally have have been covered,

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but that has led to few follow on questions.

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If I put a scenario to you first,

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so the higher production unit starts, you've started operating that

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and throughout the course of operation various items of planting equipment need replacing

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whether that be the flare stack, you know various pipes, pumps, process instrumentation.

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A lot of the equipment as we as operation progresses throughout the years

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will be replaced.

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We then come to say year 25

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and at that point

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large pieces of the equipment may have been replaced and probably don't represent the original items. But nevertheless in essence it is the still the same scheme

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after 25 years. Just want to clarify that point.

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Is it a hard stop or is it a soft stop? What I mean by a staff stop, is it more a case of we're not gonna stop operation, but it really at the at the stage of year 25, we are merely going to reflect and see

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is the market there,

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is the plant in a good enough state for us to continue or does it need a lot of investment for us to continue processing for another few years? Just trying to understand what exactly happens

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after 25 years in terms of

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plan changes and then following on from that

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some of the the DC or the draught ECO aside some of the regulations, regulations, EPA regulations and various licences.

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Do they then need to be reviewed or is it a case of for those they are granted

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indefinitely in terms of so long as you meet their criteria in which you're required to operate in

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Sir Harry Wood Philpot KC on behalf of the applicants? In a moment I'm going to ask Mr Robson to deal with that from the practical company perspective, which I understand is the thrust of the question. But just to be clear, from a legal perspective, so far as the draught ECO is concerned, nothing happens at 25 years. So it is. That's why I emphasise that I'm going to ask Mr Robson to deal with it from a sort of practical perspective in terms of how that might work from the

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operating position, from the commercial position. But legally, so far as the Draught ECO is concerned, there's nothing which gives 25 years a particular currency in that respect.

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Time in Robson for the applicant,

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Yes, let me, let me just run through some description of particularly the mechanical integrity checking that would happen, leaving aside the ongoing maintenance strategy that's in place. But in terms of

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the mechanical integrity assurance programme which we'll have in place, you know this would be a risk based inspection programme aligned with various codes or indeed it might be defined as part of a regulation such as the pressure system, safety regulations. And if we take that

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those regulations as an example, then the facilities required to comply and and for information those regulations apply to any equipment, piping or process system that contains pressure. So it largely applies to all of our facility and the components within it.

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Those regulations require us to,

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before any piece of equipment is put in place, to have a written scheme of examination explaining how we will verify the integrity going forward.

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And so at set intervals, A competent person must carry out the examinations as defined by that written scheme of examination. And they may include relatively simple things like wall thickness checking, inspection for corrosion, other non destructive testing.

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And the result of those set examinations together with the original design data

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will be used to considering the the fitness for service for that piece of equipment and establishing the next point in time that we need to carry out that inspection. And and so that that process which is enforced by the HSC is in place throughout the operating life of the facility. So each piece of equipment under those regulations would go through this examination to confirm its fit, fit for purpose and can and to

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a net a further examination date would be set. So to answer your original question there is no single MOT type integrity test for the overall facility. It's it's a instead this is a an ongoing regular basis of inspection and

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integrity very verification required by regulation and in and enforced by the competent authorities. So so there is no sort of set hard stop. It's an ongoing, it's an ongoing process,

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thank you. I'm really clarifies things. So those requirements pressure vessel regulations and intervention plans from the HRC and the EA will require to do certain things along with your

preventive maintenance plans and obviously your reactive maintenance as and when necessary. But they start or

6:38
as soon as you start operating.

6:40
Example, you pressure testing for your vessels may be required every five years, whatever the regulations specify.

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So I'm just trying to understand where the figure of 25 came from because those regulations that you refer to, they kick in as soon as you start, you know for the moment you start operating

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and that will mean things will need to be reviewed and destructive testing, thickness testing, all those kind of requirements, they start immediately.

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So

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why specify 25 years as the the start Because as an example if

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at the you know after 23 years of operation you've done all those testing and and that means your pressure vessel testing is an example won't need to be done for another few years. So that goes, takes you past the 25 year mark, in which case

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what do you then need to do at 25 after 25 years, if anything

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time in Robson for the applicant. My understanding is, is that as long as we're in compliance with all of the regulatory inspections that we don't have to do anything specific at 25 years. The environmental permit has its own requirement and that continues. The coma safety report has to be updated every five years and that's an ongoing process. So my understanding is there's nothing specific

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required that at 25 years.

8:15
So going back to the question, so where or

8:18
or why was the figure of 25 derived

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I, I, I, Tom and Robson. For the applicant, I think 25 years is a relatively standard design life set on equipment items,

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with the understanding that it they will go through this process of

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possible replacement, possible overhaul.

8:48
But we're not in a position from a design point of view, to specify a design life for any particular piece of equipment that is too extreme,

9:00
because that in itself poses problems in the design and fabrication and indeed the cost of a piece of equipment like that.

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Thank you, Mr So for the purposes of this application and the the DC that you've applied for,

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it doesn't really make much of a difference in Fraser, our examination. It's how I understand it because because after 25 years what you're saying is

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do you intend to carry on so long as everything is in place and the consenting regimes allow you to do so.

9:39
Time and Robinson for the applicant that that is correct. As long as the integrity of the facility

9:47
is is assured and the market conditions allow it and the consenting authorities permit it, we intend to continue operation.

9:59
Thank you. I only have one more question on on under this agenda item in terms of

10:06
consents, licencing and so on,

10:12
does anything require review

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after a certain period of time or whatever you require to operate is assuming you grant it, it's it's granted to yourselves and you maintain whatever it is they require,

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you're allowed to continue operation, you don't need to review every few years. I understand you have intervention plans and so on, but so long as you're complying with those, there's no reason why you need to reapply for those other granting regimes.

10:43
A time when Robson for the applicant that that is correct, subject to the requirements of the individual codes, the the coma

10:55
consent for example the coma report and needs to be reviewed and and updated every every five years I believe so subject to that correct.

11:26
Thank you. That concludes the agenda item I will now hand over to Missi

11:45
Um. Let's move swiftly on to Agenda item 8, the Draught Development Consent Order.

11:53
This agenda item is addressed to the Marine management organisation. We're asking for justification for the drafting change that the MO is seeking in the draught ECO, the DML and the protective provisions.

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The reason for seeking this justification from MO was that if there were areas where there were there was unresolved disagreement between the applicant and MO, then we could start to seek relevant evidence justification

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in order to draw a conclusion if those matters were not resolved before the close of the examination. But of course nobody from the MMO is in attendance. I think we can still make effective use of this time if the applicant, if you're prepared, if you could go through the list of MMO's, draught ECO concerns which is in RR-016 Section 3

12:50
and highlight for us, um, if there are areas where you're currently resisting addressing their concern or the proposed change. And basically what this will do is that vote for MO and for ourselves, yourselves. It'll just focus our minds to only those areas and and you know we can focus our questions on that as well. Then

13:16
Madam Harry would fill up on behalf of the applicant. If I can just introduce this by by making this point what we have and we are in the process of preparing and I have a a a a draught of a detailed

response to the MO's commentary which we'll be putting in at deadline. One which goes through each of these matters that have been raised in a great

13:47
many cases. Um the suggestion that has been made is to be taken on board and so but but in in order to go through and identify those where we do not. I'm happy to do that, but it might be it might just be a little bit patchy if I go through I'm happy to do it if it would if it would assist.

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So the the, the, the starting point is the issue raised by the MO about the Article 63 procedure relating to certain approvals.

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And what what the MO has said in that respect is an an exclusion should be provided to ensure the MO is not bound by arbitration provisions and has provided a a a suggested addition to that that's been accepted. And therefore Article 62 will be revised so as to provide that exception. And and I I

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a single VAT out because that's quite a sort of substantive one that they've raised. And therefore I hope that will

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assessed that there are then a a a series of points about definitions. And I won't go through all of those

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in in detail because a great many of them have simply been updated and are being updated to reflect the points that have been made that there is a

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suggestion made him in item paragraph 3, point 2.3 about the definition of environmental statement,

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and it suggested that further further details should be provided to aid interpretation of what the Environmental statement means. And that is something that we don't agree to be necessary. The definition of Environmental statement that we've provided mirrors that which has been included in made DCO's. But moreover, it is not necessary to do that because the definition refers to the exact documents

16:18
that comprise the environmental statement, which are listed in Schedule 15. Those are documents and plans to be certified. So the Secretary of State will need to certify those under Article 64. So there's just simply no ambiguity as to what that means and therefore it's not not necessary to make that change.

16:40
And the the next item that there's a in paragraph 3 point 2.4. The the MMO has identified certain terms that are included in Part 2 conditions but are not currently defined in part one and request that

they be defined and and that those which they've identified are the Environment Agency, the Health and Safety Executive, Historic England and Natural England.

17:11
And those bodies are not only not defined in other made DCOS or die marine licences but there's an obvious explanation for that as it's entirely clear who those bodies are that you don't want doesn't need to define who the Health and Safety Executive are for example. So we we've rejected that

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then there are further points that they've made which have been picked up in a amendments and I won't go through those then. Then we come on to conditions attached to the D Marine licence

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and there is a request in paragraph 331 in relation to the construction Environmental Management Plan for further clarity regarding the interrelationship between the outline and the final version of that

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a plan. And that that is

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the the explanation as to why we don't think that's necessary is there is of course an outline CMP provided with the application

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and there is um

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uh

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that there is a an explanation which will be provided as to why that is adequate. I unless you think it's helpful I think it's it's such a detailed drafting point that I don't propose to read it out but that is 1 where we think we've gone far enough that then in paragraphs 335. Mr Philpott, just on that point,

19:02
are you saying you're not accepting that drafting point and suggesting something else or just sticking with whatever you've got?

19:10
Well, there there, there is a that there is an update in relation to item J on their list, which is a separate point, but I believe in relation to item I. OK, that we're content with what we've OK what what we've got

19:26
Than in paragraphs 335 to 336, there's a suggestion by the MO that there should be an additional paragraph added to the end of condition 20, which they then set out. And we don't propose to

provide that additional wording because the wording already appears in Condition 6. And so that would simply be duplication and the duplication would serve no useful

19:57
purpose. And then I believe the only other point they've made, which was in relation to Schedule 14 protective provisions, part one for the protection of the Humber Conservancy Commissioners, we have made an amendment in response to their point who would then go on to non DCA points. So there are a handful of issues, relatively minor, where we're we're not accepting their drafting points, but I hope that the limited number of those give some.

20:28
Initial indication of the extent to which we have been able to make amendments in in response that they'll obviously speak for themselves and they'll they'll see the response both in that document and in the revised draught that will provide a deadline one.

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Thank you very much. That was very helpful. And as I said, it'll just focus our minds. So

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what I will do is rather than I will just um

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edit our written question relating to this point and ask MO for justification on just the points that you've highlighted. You're proposing to resist and and if if in due course the MO thinks that any of the amendments we've made

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are not adequate to meet their point, no doubt they'll let us and let you know for sure.

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I don't think Natural England so far and of course we've not seen this submission in lieu of attendance but in their relevant Rep they have not they've they've held back on their comments on the draught easier. So when those come forward we can we can cover those off.

21:40
We we've we've seen that, we've seen the document they're put in in you it. It does make some DCO related points. We'll obviously respond to those separately in any event,

21:51
OK. Umm, I don't have any further questions on this. Does anybody else have any comments?

21:59
OK, I'll swiftly move on to the second item under agenda, item 882. This is fairly self-explanatory. It is as a related question. The reason I'm taking the liberty of bringing it up today is because it is included in written questions, so it's open to all interested parties and affected persons

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and also because we intend to raise it again at a future compulsory acquisition hearing.

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We're also bringing it up today because we are very aware that Crown Land related evidence can take long. As such, if we find that we need any further evidence, we would like to highlight that now so that we can hopefully be provided. It can be provided before the close of the examination question is fairly self-explanatory.

22:48
The applicant's statement of reasons. The updated version mentions the details and in fact indeed in various other places it mentions the an 1869 leasehold interest obtained by the applicant.

23:04
If you could just elaborate on what the time period it's been obtained for, I know it's a 999 year lease. What are the allowable works under the lease and if you have any corroboration from the relevant Crown authority to support that, Thank you Madam Hereward Phillpott on behalf of the applicant. So the the lease that is referred to in the agenda item is a lease entered into between the Queen's Most Excellent Majesty and the Board of Trade

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on the Humber Conservancy Commissioners on the 1st of January 1869. Whereby the Board of Trade on behalf of Queen Victoria granted the Humber Conservancy Commissioners a 999 year lease of that part of the foreshore and bed of the Humber and its estuary shown on a plan and which will put into the examination. So you can see the area that is subject to that lease. As you heard earlier today,

24:05
BP is the successor to the Humber Conservancy Commissioners, and the Crown Estate is the successor to the Queen's Most Excellent Majesty and the Board of Trade. And so ABP there has therefore has the benefit of the residual term of 844 years and the extent of the least demise includes the order limits and beyond ABP's own freehold

24:35
title and you'll you'll get the necessary plan in due course. And so far as the the the allowable works under the leasehold is concerned, the lease provides that. Now ABP must not execute any embankment or other work on the demised foreshore except with the consent of now the Crown Estate in writing. So that's the way that it handles

25:06
works. We have to get the consent in writing of what is now the Crown Estate and we've therefore engaged with the Crown Estate on the details of the authorised project following which they have recently confirmed their consent in writing and will provide that to you at deadline one in due course. And

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the the the Crown Estates Agents Carter Jonas has also confirmed on behalf of the Crown Estate that they are content with the form of Article 60. That's Crown writes in the Draught Development Consent Order. And we therefore believe that there is nothing further required from the Crown

26:01
because Article 60 deals with the necessary protection for Crown rights. And as we'll prove in due course with the relevant letter, we now have the necessary consent for what is proposed pursuant to the Development Consent Order.

26:31
Sorry, can you just repeat what you said about Article 60? Does that mean that you will need to make an amendment to Article 60? No, and quite quite the opposite, and I apologise if I didn't make that clear. They have confirmed they are content with the form of Article 60. Hence we don't think we need anything further from the Crown having obtained the necessary consent pursuant to the lease and they're having confirmed

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on behalf of the Crown Estate their agents that they have no concerns about Article 60, which protects the Crown rights. We believe that should satisfy

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that the Crown and and hopefully also the Secretary of State in due course and and you and your colleagues in respect of the Crowns interests. OK. So just a couple of questions. First of all, is this the Crown commissioners or is there a different Crown authority related with who are you liaising with? Who's the Crown authority? We are liaising with the Crown Estate through their agents. Carter. Jonas,

27:35
OK. All right. Second question plan would be very helpful.

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The lease itself,

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is that something that's of relevance to the examination and I I don't believe it it it is provided that you are shown that the Crown Estate has given the necessary consent and then then there is no need for the lease. But if you if on consideration of the Crown Estates letter you think that some further evidence of in relation to the lease whether that's necessarily the lease itself

28:17
is another matter you of course I'm sure you'll raise it with us.

28:21
OK that's fine. I think the the letter from the Crown Estate is going to be and did you say you already are in possession of this letter. We've we've been, we've we've recently received it. So we will should be able to put that in at deadline one and is there I think the letter will be sufficient, but let's wait to see it because the one thing that I have noted down is that you said that this lease was given to the the Humber Conservancy

28:52
and

28:53
the an ABP has inherited this lease. So is there something either in the lease or separate from the lease which actually enables that transfer of lease because not all leasehold agreements are transferable. So

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if you show us the consent letter from the Crown Estate then I think that would be sufficient. But that's one aspect of the transfer which would be helpful.

29:24
Well I understand the point hereward phillpot on behalf of the applicant. What I'll have to do is is is take instructions and and therefore we can deal with the, the precise method by which the lease has transferred and whether that's pursuant to the terms of the lease or or or some other matter. And to do with the way in which the

29:47
position of the Humber Conservancy Commissioners was passed across to ABP. Whether it was part of that process, I'd have to check and we can come back and we can confirm that at deadline one. OK, that's fine.

30:04
Now under if it was a typical process where those crown land crown consent would be needed

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and what would happen after that Just you know I'm not talking about this case. The the reason I'm asking this question is because you say you've got leasehold agreement and but you still needed a consent and writing. So are we still bound by the provisions of the act

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the provisions of the act have are which which act do you have in mind Planning Act 2008 Yes of course we're we're the the the point about the leasehold is it allows us it gives us the necessary interest in land over the area that is affected by those parts of the parts of the work. It the the consent of the Crown Estate is simply pursuant to that lease.

30:59
So under that private law agreement we need the consent of the Crown Estate so that we are not in breach of the lease terms. Nevertheless, we're still subject to the public law regulation of land through the Planning Act 2008 because the Jessie is an end zip and therefore we need development consent and we need the DE marine licence in the case of the offshore works in order to have the public law

31:29
law right to construct the jetty and operate it.

31:36
OK,

31:38

all right. I think there's a handful of actions in there. I think we've got them all. Yeah. OK. I'm content with that for now. If you have any further questions, of course we'll come back to you.

31:49
Um, that's it for agenda item 8.

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I mean

31:56
George.

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32:16
I think we are in a position to close quite swiftly, but we will just review our actions and come back in about 15 minutes.

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The times just gone 19 minutes past four. We'll be back at 4:35 PM.

32:35